IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.7014 of 1996

Between:

Gulam Ghouse Khan, S/o Yasim Khan,
Clerk, Employee No.93423, R/o 17-2-579/96, Saidabad,
Kurmaguda, Hyderabad.

..... PETITIONER

AND

1 The Labour Court No. I, Rep. by its Presiding Officer,
2nd Floor, Chandravihar Building,
Nampally, Hyderabad-1, A.P.
2 The Depot Manager, APSRTC Bus Depot,
Dilsukhnagar, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to call for the records from the 1st respondent and issue a writ, order or direction more particularly one in the nature of writ of Certiorari and quash the award passed by the 1st respondent in I.D. No.210/93 (Old I.D.No.438/88) dated 27/10/1993 published on 14/02/1994, holding the same as illegal, unjust, contrary to law and perverse and consequently direct the 2nd respondent to reinstate the petitioner into service with full back wages and continuity of service and all other attendant benefits.

Counsel for the Petitioner: Mr. K.SUBHAS REDDY

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: None appeared

The Court made the following :

W.P.No.7014 of 1996

ORAL ORDER:

This Writ Petition is filed seeking a Writ of Certiorari to quash the Award dated 27-10-1993 passed in I.D.No.210 of 1993 (old I.D.No.438 of 1988) on the file of the Labour Court-I, Hyderabad.

It seems, while the petitioner was working as a Cleaner in the respondent-A.P. State Road Transport Corporation was issued with a charge sheet on 21-2-1984 alleging that he was absent from duties with effect from 15-1-1984 till 21-2-1984 unauthorizedly and left India without intimation or prior permission from the concerned authorities. Thereafter, a detailed inquiry was conducted and he was removed from service of the Corporation on 29-10-1984. Though the appeal and review remedies are provided against the said order, the petitioner did not avail of the same and directly raised the Industrial Dispute under Section 2-A(2) of the Industrial Disputes Act,1947. Before the Labour Court, no oral evidence was adduced by either side, but Exs.B1 to B18 were marked on behalf of the Management. After elaboration consideration of the evidence placed before it, the Labour Court came to the conclusion that the order of removal passed by the Management was valid and the petitioner was not entitled for any relief. Aggrieved by the same, the present writ petition is filed by the workman.

Heard both sides and perused the impugned Award.

While appreciating the contentions of both parties and the evidence adduced by the Management, the Labour Court found as under:

"....The learned advocate for the petitioner admitted across the bar at the time of arguments that the petitioner really went out of India because of certain compelling circumstance. It is not in dispute that an employee, who has been working in the respondent-company is not entitled to leave headquarter without permission, more so leaving India.

Ex.B1 is an application sent by the petitioner for extension of leave from 17-1-1984 to 16-4-1984 mentioning that he has got some urgent domestic affairs at his residence. The same was received by the respondent on 23rd January,1984 as per the endorsement made on Ex.B1. Ex.B2 is the letter addressed to the petitioner by the respondent advising him to report to duty.....The petitioner merely sending an application for leave without mentioning the cause and without knowing whether the leave has been granted or not has only remain absent amounting to his unauthorized absence. Even since the removal of the petitioner from service also on 20-10-1984, the whereabouts of petitioner were not known to the respondent because the petitioner left India. The petitioner filed this petition questioning the order of removal only on 15-11-1988 admittedly showing that he was continuously absent for a long time. The petitioner has also not given any reasons as to why he could not file the petition questioning the correctness of the removal from service till the filing of this petition. The petitioner himself admitted that he has not filed appeal against the order of removal to show that he returned India only in the year 1988. Under these circumstances of this case, the order of removal of petitioner is not invalid or unjust or shockingly disproportionate. The contention of the learned advocate for the petitioner that since petitioner returned to India and has been out of employment and, therefore, his case may be considered for reinstatement as a fresh candidate also in the circumstances of the case, is not convincing nor is it a case where the court can alter the punishment under Section 11-A of the Act....."

Admittedly, the petitioner absented from his duties and also left India without any intimation and without any prior permission of the employer. Till the end of 1988 he did not raise his little finger against the removal order dated 29-10-1984. Petitioner has not denied that he was absent from duties and left India for employment elsewhere and thus not only he was absent for the period for which the charge sheet was issued and thereafter, his whereabouts were not known and he has not taken any steps to question the removal order passed by the Management immediately thereafter. There is a delay of about four years from the date of removal and the date of raising the I.D. No explanation has been forthcoming from the petitioner for the said delay. That apart, now it is more than 20 years since the date of removal of the petitioner from service. Thus, the Award passed by the Labour Court does not suffer from any legal infirmity or irregularity and does not call for interference at the hands of this Court. The Writ Petition fails and is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs.

23-12-2004

prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Presiding Officer, Labour Court No. I,
2nd Floor, Chandravihar Building,
Nampally, Hyderabad-1, A.P.
2 The Depot Manager, APSRTC Bus Depot,
Dilsukhnagar, Hyderabad.

3. 2CCs to G.P. for Labour, High Court Buildings, Hyderabad (OUT)

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